

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at CHATTANOOGA

DERRICK L. WITCHER)	
)	
v.)	No. 1:12-CV-192/1:98-CR-77
)	<i>Judge Mattice</i>
UNITED STATES OF AMERICA)	

MEMORANDUM

Federal prisoner Derrick L. Witcher ("Witcher") filed for post-conviction relief pursuant to 28 U.S.C. § 2255 on February 8, 2001. *See Witcher v. United States*, Civil Action No. 1:01-cv-47, Court Doc. 1. The Court denied relief on February 27, 2001, finding Witcher's motion was time-barred by the one year statute of limitations applicable to § 2255 motions. *See Witcher v. United States*, Civil Action No. 1:01-cv-47, Court Docs. 2 & 3. Witcher subsequently filed a motion in the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 2244, requesting an order authorizing the district court to consider a second or successive § 2255 motion to vacate, set aside or correct sentence, which the Sixth Circuit denied on June 2, 2006. *See Witcher v. United States*, 1:01-cv-47, Court Doc. 10. Witcher has now filed a second § 2255 motion attacking the same conviction (Criminal Court Doc. 1161).¹

In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," effective April 24, 1996, Witcher cannot file a second or successive § 2255 motion in the District Court until he has moved in the United States Court of Appeals for the Sixth

¹ Each document will be identified by the Court File Number assigned to it in the underlying criminal case.

Circuit for an order authorizing the District Court to consider the motion. This Court has not received an order from the Sixth Circuit authorizing it to consider the pending motion.

Accordingly, the Clerk will be **DIRECTED** to **TRANSFER** this action to the United States Court of Appeals for the Sixth Circuit, pursuant to 28 U.S.C. § 1631 and close this case. See *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997).

SO ORDERED.

ENTER.

/s/ Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE